

**Lance J.M. Steinhart, P.C.**  
Attorney At Law  
1720 Windward Concourse  
Suite 115  
Alpharetta, Georgia 30005

Received & Inspected  
AUG 25 2010  
FCC Mail Room

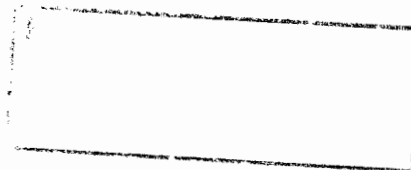
Also Admitted in New York  
and Maryland

Telephone: (770) 232-9200  
Facsimile: (770) 232-9208  
Email: lsteinhart@telecomcounsel.com

August 24, 2010

**VIA OVERNIGHT DELIVERY**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street  
Washington, D.C. 20554



Re: i-wireless, LLC  
Petition for Designation as an Eligible Telecommunications Carrier  
CC Docket No. ~~96-45~~ **09-191**

Dear Ms. Dortch:

Enclosed please find an original and four (4) copies of i-wireless, LLC's Petition for Limited Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia.

Confidential treatment is requested for data provided in Exhibit M of this Petition, pursuant to Section 0.459 of the Commission's rules.<sup>1</sup> The confidential material is clearly marked and is being filed in a separate envelope. The marked information is sensitive company information not available to the public, including competitively sensitive information about i-wireless' market plans and business strategy.

As required by Section 0.459(b) of the Commission's rules, i-wireless provides the following information regarding its request for confidential treatment:

1. Confidential treatment is requested for i-wireless' projected Lifeline subscriber count.
2. i-wireless' projected subscriber count is contained in Exhibit M of the enclosed Petition for Limited Designation as an Eligible Telecommunications Carrier.
3. The information regarding i-wireless' subscriber projections is commercially and financially sensitive, is a trade secret, and is privileged. The information is not generally publicly available.

<sup>1</sup> 47 C.F.R. § 0.459.



Ms. Dortch  
Federal Communications Commission  
August 24, 2010  
Page 2

4. The wireless telecommunications industry is highly competitive.<sup>2</sup> There is competition in the provision of wireless Lifeline service from standard wireless ETCs and the special Lifeline ETCs that have already been designated.
5. The release of this information will cause substantial competitive harm to i-wireless. Disclosure of i-wireless' projected subscriber counts would give i-wireless' competitors access to privileged information that would affect the actions of those competitors. Competitors could utilize such information to position their entry or pricing and/or extrapolate sensitive data regarding i-wireless' financial condition and plans for the future.
6. i-wireless considers this information to be proprietary and confidential and does not distribute such information to any party outside of the company, with the exception of outside counsel.
7. This information is not available to the public and has not been disclosed to any other third party, with the exception of outside counsel.
8. The information should not be released for public inspection, as it contains proprietary company information that is competitively and financially sensitive and a trade secret. At some point, however, this information will become stale. At minimum, the information should be protected for not less than three years.

For the foregoing reasons, i-wireless respectfully requests that the Commission provide confidential treatment for the identified information.

I have enclosed an extra copy of this letter to be date stamped and returned to me in the enclosed, self-addressed, postage prepaid envelope. If you have any questions or if I may provide you with additional information, please do not hesitate to contact me. Thank you for your assistance.

Respectfully submitted,



Lance J.M. Steinhart  
Attorney for i-wireless, LLC

Enclosures

c: Patrick McDonough

---

<sup>2</sup> See generally *Thirteenth Annual CMRS Competition Report*, 24 FCC Rcd 6185 (2009).

---

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of )  
 )  
Federal-State Joint Board on Universal Service ) CC Docket No. 96-45  
 )  
i-wireless, LLC )  
 )  
Petition for Limited Designation as an Eligible )  
Telecommunications Carrier in the States of )  
Alabama, Connecticut, Delaware, New )  
Hampshire, North Carolina, New York, )  
Tennessee, the Commonwealth of Virginia, )  
and the District of Columbia )

**PETITION FOR LIMITED DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER IN THE STATES OF ALABAMA,  
CONNECTICUT, DELAWARE, NEW HAMPSHIRE, NORTH CAROLINA, NEW  
YORK, TENNESSEE, THE COMMONWEALTH OF VIRGINIA, AND THE DISTRICT  
OF COLUMBIA**

Patrick McDonough  
Vice President  
I-WIRELESS, LLC  
1 Levee Way  
Suite 3104  
Newport, KY 41071

August 24, 2010

---

## TABLE OF CONTENTS

SUMMARY .....	iv
I. INTRODUCTION .....	1
II. BACKGROUND .....	2
A. i-wireless Overview .....	2
B. Lifeline Program .....	5
III. THE COMMISSION HAS AUTHORITY TO PERFORM THE ETC DESIGNATION .....	7
IV. I-WIRELESS REQUESTS ETC DESIGNATION IN ITS SERVICE AREAS IN THE NON-JURISDICTIONAL STATES FOR PARTICIPATION IN THE LIFELINE PROGRAM .....	9
A. i-wireless Requests ETC Designation in its Existing Service Area.....	9
B. i-wireless' Limited ETC Designation Request Only Seeks Authority to Participate in the Lifeline Program .....	9
C. The Limited Designation Request is Consistent with Recent Precedent.....	10
V. I-WIRELESS SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC .....	11
A. i-wireless is a Common Carrier .....	11
B. i-wireless Will Provide the Supported Services Through Resale .....	12
C. i-wireless Offers All of the Required Services and Functionalities.....	13
1. Voice Grade Access to the Public Switched Telephone Network.....	14
2. Local Usage .....	14
3. Dual Tone Multi-Frequency Signaling or its Functional Equivalent.....	14
4. Single-Party Service or its Functional Equivalent.....	14
5. Access to Emergency Services .....	15
6. Access to Operator Services .....	15
7. Access to Interexchange Services.....	15
8. Access to Directory Assistance.....	15
9. Toll Limitation for Qualifying Low-Income Consumers .....	15
D. Advertising of Supported Services .....	16
VI. DESIGNATION OF I-WIRELESS AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST .....	17
A. Goals of the Communications Act.....	17
B. The Benefits of Competitive Choice.....	20
C. Impact on the Universal Service Fund.....	20

VII.	ANTI-DRUG ABUSE CERTIFICATION.....	21
VIII.	CONCLUSION.....	22

## TABLE OF EXHIBITS

	<u>Exhibit</u>
i-wireless, LLC's Lifeline Rates .....	A
Affirmative Statement of the Alabama Public Service Commission.....	B
Affirmative Statement of the Connecticut Department of Public Utility Control .....	C
Affirmative Statement of the Delaware Public Service Commission.....	D
Affirmative Statement of the District of Columbia Public Service Commission.....	E
Affirmative Statement of the New Hampshire Public Utilities Commission .....	F
Affirmative Statement of the New York Public Service Commission .....	G
Affirmative Statement of the North Carolina Utilities Commission .....	H
Affirmative Statement of the Tennessee Regulatory Authority .....	I
Affirmative Statement of the Virginia Corporation Commission.....	J
<i>i-wireless Forbearance Order</i> .....	K
i-wireless, LLC's Compliance Plan .....	L
Projected Lifeline Subscriber Count.....	M

## SUMMARY

i-wireless, LLC (“i-wireless”) is seeking limited designation as an Eligible Telecommunications Carrier (“ETC”) in the States of Alabama, Connecticut, Delaware, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia (collectively the “Non-Jurisdictional States”) pursuant to Section 214(e)(6) of the Communications Act, solely for purposes of offering services supported by the Universal Service Fund’s (“USF”) Low-Income program. i-wireless is a Mobile Virtual Network Operator (“MVNO”) that purchases wireless service on a wholesale basis from Sprint Nextel. The Commission may perform ETC designations for entities not subject to the jurisdiction of a state commission, and the Non-Jurisdictional States have each provided an affirmative statement that it does not exercise jurisdiction over wireless providers for purposes of ETC designation. Accordingly, pursuant to Section 214(e)(6), the Commission has the necessary authority to designate i-wireless as an ETC in the Non-Jurisdictional States.

i-wireless meets all of the necessary requirements under Section 214(e)(1) for the limited ETC designation requested herein except for the own facilities requirement. Section 214(e)(1)(A) of the Act requires an ETC to offer USF-supported services over its own facilities or a combination of its own facilities and the resale of another carrier’s services. i-wireless was granted forbearance from enforcement of this facilities requirement by the Commission on June 25, 2010 to permit its designation as an ETC. Through its contracts with underlying carriers, i-wireless has the ability to offer all of the services and functionalities supported by the USF and set forth in Section 54.101(a) of the Commission’s rules. i-wireless respectfully requests that the Commission promptly approve the instant request for limited ETC designation to enable i-wireless to rapidly provide Lifeline services to qualifying customers in the Non-Jurisdictional States.

Designating i-wireless as an ETC in the Non-Jurisdictional States will promote the public interest by providing qualifying low-income customers in the Non-Jurisdictional States with lower prices and high-quality wireless services. Many low-income customers in the Non-Jurisdictional States have yet to reap the well-documented benefits of wireless service because of financial constraints, poor credit history, or intermittent employment. i-wireless' prepaid service offerings are ideally suited to provide these customers with reliable and cost-effective wireless services. As an ETC, i-wireless will be able to provide discounted and affordable services to these consumers who are among the intended beneficiaries of USF support. i-wireless' designation will specifically serve the public interest because of the aggressive pricing plans that i-wireless will provide (see Exhibit A) and because of i-wireless' unique distribution channels via relationships with small retail stores in low-income neighborhoods that will permit customers to obtain service, phones, and refill minutes without traveling outside their neighborhoods or using a computer.

ETC designation for Lifeline service is consistent with precedent and will serve the public interest, and should be granted without delay.



Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
i-wireless, LLC	)	
	)	
Petition for Limited Designation as an Eligible	)	
Telecommunications Carrier in the States of	)	
Alabama, Connecticut, Delaware, New	)	
Hampshire, North Carolina, New York,	)	
Tennessee, the Commonwealth of Virginia,	)	
and the District of Columbia	)	

**PETITION FOR LIMITED DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER IN THE STATES OF ALABAMA,  
CONNECTICUT, DELAWARE, NEW HAMPSHIRE, NORTH CAROLINA, NEW  
YORK, TENNESSEE, THE COMMONWEALTH OF VIRGINIA, AND THE DISTRICT  
OF COLUMBIA**

**I. INTRODUCTION**

i-wireless, LLC (“i-wireless”), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (“Act”), and Section 54.201 of the rules of the Federal Communications Commission (“FCC” or “Commission”), hereby requests limited designation as an eligible telecommunications carrier (“ETC”) in the States of Alabama, Connecticut, Delaware, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia (collectively the “Non-Jurisdictional States”). i-wireless seeks ETC designation in the Non-Jurisdictional States only for purposes of participation in the Universal Service Fund’s (“USF”) Low-Income programs and does *not* seek to participate in the High-Cost support program.

Since the Alabama Public Service Commission, the Connecticut Department of Public Utility Control, the Delaware Public Service Commission, the District of Columbia Public Service Commission, the New Hampshire Public Utilities Commission, the North Carolina Utilities Commission, the New York Public Service Commission, the Tennessee Regulatory Authority and the Virginia State Corporation Commission (collectively, the “State Commissions”) lack jurisdiction to consider i-wireless’ request for designation as an ETC, the Commission, under Section 214(e)(6) of the Act, has the necessary jurisdictional authority to consider and grant this request.<sup>1</sup> As more fully described below, i-wireless satisfies the requirements for designation as an ETC in the Non-Jurisdictional States and will offer all of the services and functionalities supported by the universal service program throughout its designated service areas in the Non-Jurisdictional States. Grant of i-wireless’ request, therefore, will promote the public interest by providing customers in the Non-Jurisdictional States with lower prices and higher quality wireless services through innovative distribution channels.

## **II. BACKGROUND**

### **A. i-wireless Overview**

i-wireless will provide prepaid wireless telecommunications services to consumers by using the Sprint Nextel (“Sprint”) network on a wholesale basis to offer nationwide service. Sprint is a nationwide carrier that provides wholesale capacity on its wireless network to wireless resellers like i-wireless. Pursuant to an existing agreement, i-wireless will obtain from Sprint the network infrastructure and wireless transmission facilities to allow i-wireless to operate as a Mobile Virtual Network Operator (“MVNO”), similar to TracFone and Virgin Mobile, both of whom have been

---

<sup>1</sup> See 47 U.S.C. § 214(e)(6).

granted ETC status by the Commission.<sup>2</sup> As an MVNO, i-wireless will purchase wireless services from Sprint on a wholesale basis for calling and text messaging, package those services into i-wireless' own service plans and pricing, and bundle the wireless service with i-wireless' handset selection, mobile applications, marketing materials, web interface, and customer service to produce finished wireless service offerings to sell to end-user customers.

Prepaid wireless services that are affordable and easy to use are attractive to lower-income and lower-volume consumers, providing them with access to emergency services and a reliable means of communication that can be used both at home and while traveling to remain in touch with friends and family and for contacting prospective employers. By providing affordable wireless plans and quality customer service to consumers who are otherwise unable to afford them, or were previously ignored by traditional carriers, i-wireless will expand the availability of wireless services to many more consumers, which is the principal reason that Congress created the universal service program.

i-wireless will offer consumers simple and affordable prepaid calling plans, a variety of prepaid service plans, easy-to-use handsets and high-quality customer service. Given its pricing and marketing strategy and the demographics of other, similar MVNOs' customers, i-wireless anticipates that many of its customers will be from lower-income backgrounds and will not previously have enjoyed access to wireless service because of economic constraints, poor credit

---

<sup>2</sup> *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc., Petitions for Designation in the States of Alabama, Connecticut, Delaware, Florida, North Carolina, New Hampshire, New York, North Carolina, Pennsylvania, Tennessee, Virginia, and Washington D.C.*, CC Docket No. 96-45, Order, 23 FCC Rcd 6206 (2008) ("TracFone ETC Order"); *Petition of Virgin Mobile USA, L.P. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) ("Virgin Mobile Order"). The Commission had previously granted TracFone forbearance from the facilities requirement for ETC designation, permitting TracFone to offer the supported services via resale only. *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) ("TracFone Forbearance Order"). The *Virgin Mobile Order* contained both the forbearance analysis and ETC designation.

history, or sporadic employment. i-wireless will not conduct credit checks or require customers to enter into long-term service contracts as a prerequisite to obtaining wireless service. i-wireless will allow customers to choose a prepaid plan in which they are charged only for the minutes they use.

i-wireless intends to be a leader in the prepaid marketplace by offering consumers exceptional value and competitive amounts of voice usage at all price points. Attached hereto as Exhibit A is a table of i-wireless' rate plans, showing that i-wireless will provide customers with a minimum of 100 free minutes and a free handset in its Lifeline service offering.<sup>3</sup> In addition to free voice services, prepaid Lifeline customers also will have access to a variety of other standard features at no additional charge, including voice mail, caller I.D. and call waiting services. Furthermore, through i-wireless' partnership with The Kroger Co. ("Kroger"), one of the nation's largest grocery retail chains, customers can accumulate free minutes for dollars spent at select Kroger owned store locations using their Kroger shopper's card.<sup>4</sup> Lifeline customers can participate in this Free Minutes program even when utilizing food stamps for payment. By combining the Lifeline program and the Free Minutes program, subscribers can easily enjoy 200 minutes or more per month at no charge.

Though i-wireless' Lifeline service offering will be the default plan for Lifeline customers, subscribers will have the option to apply the Lifeline discount towards any of the service plans offered by i-wireless. As Exhibit A demonstrates, i-wireless' Lifeline offering will not only allow feature-rich mobile connectivity for qualifying subscribers *at no cost to the subscriber*, but also will bring a variety of rate plans into the reach of Lifeline customers that are

---

<sup>3</sup> i-wireless expects that the Company's Lifeline service offering may change as the wireless market evolves. As such, the Company requests that the Commission's grant of ETC designation provide it with the requisite authority to modify the parameters of the offering as marketplace conditions develop.

<sup>4</sup> Detailed information on the Free Minutes program is located on the Company's website, [www.iwirelesshome.com](http://www.iwirelesshome.com).

comparable in minutes and features to those available to post-paid wireless subscribers – but at low Lifeline rates and without the burden of credit checks, contracts, activation fees or roaming charges. i-wireless’ prepaid offering will be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts.

Low-income consumers will further benefit from i-wireless’ service because of i-wireless’ unique software distribution platform that will allow customers to purchase both phones and refill minutes at local stores in neighborhoods where many Lifeline-eligible customers reside. i-wireless has existing relationships with over 2,200 such neighborhood retailers across the United States. This innovative distribution model is more practical and convenient for potential Lifeline customers than other mechanisms, because it allows customers to obtain phones, service, and minutes without the expense and trouble of traveling to retail locations outside their neighborhoods or to having access to a computer to go online. i-wireless’ distribution arrangement will therefore advance the Commission’s goals of increasing awareness of and participation in the Lifeline program.

## **B. Lifeline Program**

Universal service has been a fundamental component of U.S. telecommunications policy since adoption of the Act over 70 years ago. Section 254 of the Act embodies the Commission’s historical commitment to the concept of universal service, particularly for low-income consumers. Section 254(b) sets forth the principles upon which the Commission shall base its policies for the promotion and advancement of universal service. These principles require the Commission to ensure that all consumers, including low-income consumers, have access to telecommunications

services at affordable and reasonably comparable rates.<sup>5</sup> The Low-Income program was designed to assist low-income individuals obtain quality telecommunications services through the Lifeline and Link-Up programs.<sup>6</sup> Lifeline support helps defray the monthly costs of telecommunications services for lower-income consumers by providing them with discounts off the monthly cost of telephone service, with additional discounts available for individuals living on tribal lands.<sup>7</sup> Link-Up provides qualifying low-income consumers with discounts for initial activation costs.<sup>8</sup>

While generally praising the Low-Income program's success, the Commission has noted that "there is more that we can do to make telephone service affordable for more low-income households," and has specifically targeted the low Lifeline participation rate as one area for improvement.<sup>9</sup> Commission concerns regarding the underutilization of the Lifeline program have existed since its inception.<sup>10</sup> According to the most recent estimates issued by the USAC in 2010, only five (5) states had more than 50 percent of eligible low-income households subscribe to the program, while almost half the states had a participation rate of less than 20 percent.<sup>11</sup> To increase awareness of the program, the Commission has expanded the qualifying criteria and adopted broader outreach guidelines, requiring carriers to better advertise the availability of Lifeline services. Through these actions, the Commission has sought to increase Lifeline participation

---

<sup>5</sup> See 47 U.S.C. § 254. Section 254(b)(3) of the Act requires the Commission to determine whether "consumers in all regions of the Nation, *including low-income consumers* and those in rural, insular, and high cost areas...have access to telecommunications [services] ..." 47 U.S.C. § 254(b)(3) (emphasis added).

<sup>6</sup> 47 C.F.R. §§ 54.401 and 54.411.

<sup>7</sup> 47 C.F.R. §§ 54.400 and 54.401.

<sup>8</sup> 47 C.F.R. § 54.411(a)(1).

<sup>9</sup> See *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8305 ¶ 1 (2004) ("*Lifeline Order*"). According to the Commission's own statistics, only one-third of households eligible for Lifeline assistance actually participated in the program just a few years ago. *Id.*

<sup>10</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8972 ¶ 370 (1997) (subsequent history omitted) ("*Universal Service First Report and Order*").

<sup>11</sup> Information available at: <http://www.usac.org/li/about/participation-rate-information.aspx>.

because “improve[d] participation in the Lifeline program...would increase telephone subscribership and/or make rates more affordable for low-income households.”<sup>12</sup>

### **III. THE COMMISSION HAS AUTHORITY TO PERFORM THE ETC DESIGNATION**

Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific universal service support.”<sup>13</sup> The Act reserves the authority to designate entities as ETCs to state public utility commissions (“PUCs”). Pursuant to Section 214(e)(6), however, the Commission may designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission.”<sup>14</sup> The Commission has established that a carrier must demonstrate that it “is not subject to the jurisdiction of a state commission” before it may consider an application for ETC designation.<sup>15</sup> The Commission also has stated that any carrier seeking ETC designation from it must provide the Commission with an “affirmative statement” from the state PUC that it lacks jurisdiction to perform the ETC designation.”<sup>16</sup>

a) The Alabama Public Service Commission has concluded that it “has no jurisdiction to take action” on ETC petitions, and that “wireless providers seeking ETC status should pursue their ETC designation request with the FCC.” A copy of the Alabama Public Service Commission’s order is attached as Exhibit B.

---

<sup>12</sup> See *Lifeline Order*, 19 FCC Rcd at 8312 ¶ 13.

<sup>13</sup> 47 U.S.C. § 254(e).

<sup>14</sup> See 47 U.S.C. § 214(e)(6).

<sup>15</sup> See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997).

<sup>16</sup> See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 ¶ 113 (2000).

b) The Connecticut Department of Public Utility Control has provided a letter clarifying that it lacks jurisdiction to entertain i-wireless' ETC petition. The letter is attached as Exhibit C.

c) The Delaware Public Service Commission has provided a letter clarifying that it lacks jurisdiction to entertain i-wireless' ETC petition. The letter is attached as Exhibit D.

d) The District of Columbia Public Service Commission has provided a letter clarifying that it lacks jurisdiction to entertain i-wireless' ETC petition. The letter is attached as Exhibit E.

e) The New Hampshire Public Utilities Commission has provided a letter clarifying that it lacks jurisdiction to entertain i-wireless' ETC petition. The letter is attached as Exhibit F.

f) The New York Public Service Commission has provided a letter clarifying that it lacks jurisdiction to entertain i-wireless' ETC petition. The letter is attached as Exhibit G.

g) The North Carolina Utilities Commission has concluded that "the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC." A copy of the North Carolina Utilities Commission's Order is attached as Exhibit H.

h) The Tennessee Regulatory Authority has concluded that its statutory "lack of jurisdiction over CMRS providers" precludes it from processing ETC petitions. A copy of the Tennessee Regulatory Authority's order is attached as Exhibit I.

i) The Virginia Corporation Commission has concluded that "§ 214(e)6 of the Act is applicable" to wireless ETC petitions "because [the Virginia Commission] has not asserted jurisdiction over CMRS carriers," and that wireless ETC applicants "should apply to the Federal Communications Commission." A copy of the Virginia Commission's Order is attached as Exhibit J.



Accordingly, for each of the Non-Jurisdiction States, i-wireless requests that the Commission exercise its authority under Section 214(e)(6) and determine that i-wireless is “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”<sup>17</sup>

#### **IV. I-WIRELESS REQUESTS ETC DESIGNATION IN ITS SERVICE AREAS IN THE NON-JURISDICTIONAL STATES FOR PARTICIPATION IN THE LIFELINE PROGRAM**

##### **A. i-wireless Requests ETC Designation in its Existing Service Area**

Consistent with prior orders granting other MVNOs ETC status,<sup>18</sup> i-wireless requests ETC designation for its entire service area in Alabama, Connecticut, Delaware, District of Columbia, New Hampshire, North Carolina, New York, Tennessee and Virginia (i.e., the area served by the facilities-based carriers from whom it obtains wholesale service), but excluding any Tribal Areas. i-wireless understands that its service area overlaps with several rural carriers’ service areas but maintains that the public interest factors described below justify its designation in these service areas, especially since it only seeks ETC designation for purposes of participation in the Lifeline program. i-wireless does not seek ETC status in any Tribal Areas.

##### **B. i-wireless’ Limited ETC Designation Request Only Seeks Authority to Participate in the Lifeline Program**

i-wireless requests ETC designation in the Non-Jurisdictional States for the sole purpose of participating in the Lifeline program. i-wireless does not seek eligibility to receive support from the High Cost support program. As demonstrated herein, the instant request to participate in the Lifeline program is consistent with the Commission’s requirements for ETC designation, and would promote the goals of universal service by offering the many benefits of supported

---

<sup>17</sup> 47 U.S.C. § 214(e)(6).

<sup>18</sup> See *TracFone ETC Order* and *Virgin Mobile Order*, *supra* note 2.

services to low-income customers in the Non-Jurisdictional States. As discussed above, i-wireless' Lifeline offerings will include many features specifically designed for qualifying low-income customers, who currently lack appealing and affordable options for wireless services, many of whom are therefore unable to subscribe to wireless services.

**C. The Limited Designation Request is Consistent with Recent Precedent**

i-wireless' request for designation to participate in the Lifeline program is consistent with the Commission's recent decisions conditionally designating TracFone Wireless and Virgin Mobile as ETCs in several states.<sup>19</sup> In its decisions, the Commission determined that the requests of TracFone and Virgin Mobile satisfied all of the necessary eligibility requirements and that designation would serve the public interest.<sup>20</sup> The Commission specifically noted in the *TracFone* and *Virgin Mobile Orders* that designation of prepaid wireless providers as ETCs will provide a variety of benefits to low-income consumers, including increased consumer choice, high-quality service offerings and mobile access to emergency services on wireless devices.<sup>21</sup>

i-wireless requests that the Commission expeditiously process its pending ETC applications so that it can quickly join TracFone and Virgin Mobile in providing qualifying lower-income customers with affordable USF-supported wireless services. Designation of prepaid wireless providers such as TracFone, Virgin Mobile and i-wireless as ETCs is a significant step towards ensuring that all customers, particularly low-income customers, share in the many benefits associated with access to affordable wireless telecommunications services. During an economic downturn, many existing wireless customers have to forego wireless

---

<sup>19</sup> See *supra* note 2.

<sup>20</sup> See *TracFone ETC Order*, 23 FCC Rcd at 6212-13 ¶ 15; *Virgin Mobile Order*, 24 FCC Rcd at 3395 ¶ 38.

<sup>21</sup> See *Id.*

services because they can no longer afford them. Designation of ETC status to prepaid wireless carriers like TracFone, Virgin Mobile and i-wireless should help to close the widening gap for wireless services and provide low-income customers with the significant advantages associated with access to wireless services. As noted in a recent study sponsored by the Massachusetts Institute of Technology's Legatum Center for Development and Entrepreneurship and New Millennium Research Council, low-income customers receive significant economic and social benefits from wireless services, including enhanced productivity, increased economic opportunity, and broader access to emergency and safety services.<sup>22</sup>

## **V. I-WIRELESS SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC**

Section 214(e)(1) of the Act and Section 54.201(d) of the Commission's rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by universal service, either using their own facilities or a combination of their own facilities and the resale of another carrier's services. Applicants also must commit to advertise the availability and rates of such services.<sup>23</sup> As detailed below, i-wireless satisfies each of the above-listed requirements.

### **A. i-wireless is a Common Carrier**

CMRS resellers like i-wireless are treated as common carriers for regulatory purposes.<sup>24</sup>

---

<sup>22</sup> Nicholas P. Sullivan, New Millennium Research, *Cell Phones Provide Significant Economic Gains for Low-Income American Households: A Review of Literature and Data from Two New Surveys*, (April 2008), available at [http://newmillenniumresearch.org/archive/Sullivan\\_Report\\_032608.pdf](http://newmillenniumresearch.org/archive/Sullivan_Report_032608.pdf).

<sup>23</sup> See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d)(2).

<sup>24</sup> *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1425 ¶ 37, 1454-55 ¶ 102 (1994) (wireless resellers are included in the statutory "mobile services" category, and providers of cellular service are common carriers and CMRS providers); 47 U.S.C. § 332(c)(1)(A) ("mobile services" providers are common carriers); see also *PCIA Petition for Forbearance for Broadband PCS*, WT Docket No. 98-100, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16911 ¶ 111 (1998) ("We concluded [in the *Second* (continued on next page)]

## **B. i-wireless Will Provide the Supported Services Through Resale**

As described above, i-wireless purchases wireless network services on a wholesale basis from Sprint. On April 1, 2009, i-wireless filed a Petition for Forbearance from application of Section 214(e)(1)(A) of the Act that requires ETCs to offer USF-supported services either using their own facilities or a combination of their own facilities and the resale of another carrier's services. In an Order effective June 25, 2010, the FCC granted i-wireless' petition for forbearance for purposes of participating in the Lifeline program.<sup>25</sup> In the *i-wireless Forbearance Order*, the FCC concluded that forbearance from the facilities-based provision would benefit customers, "given the importance of public safety and in light of the fact that a Lifeline ETC is generally a low-income customer's only connection to the public switched telephone network."<sup>26</sup> The Commission further explained that "requiring a Lifeline provider to own the facilities it uses to offer service does not necessarily further the statutory goal of the low-income program."<sup>27</sup> Therefore, i-wireless is eligible to be designated as an ETC for purposes of participation in the Universal Service Fund's ("USF") Lifeline program.

The FCC specifically conditioned its grant of forbearance on i-wireless as follows: (a) i-wireless providing its Lifeline customers with basic 911 and enhanced 911 ("E911") access regardless of activation status and availability of prepaid minutes; (b) i-wireless providing its new Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing customers who obtain Lifeline-supported

---

*Report and Order*] that CMRS also includes the following common carrier services: cellular service, ... all mobile telephone services *and resellers of such services.*") (emphasis added).

<sup>25</sup> *Petition of i-wireless, LLC, for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, Order, FCC 10-117 (rel. June 25, 2010), (*i-wireless Forbearance Order*). A copy of the *i-wireless Forbearance Order* is attached hereto as Exhibit K.

<sup>26</sup> *i-wireless Forbearance Order* ¶ 11.

<sup>27</sup> *Id.* ¶ 15.

service; (c) i-wireless complying with conditions (a) and (b) as of the date it provides Lifeline service; (d) i-wireless obtaining a certification from each Public Service Answering Point (“PSAP”) where i-wireless seeks to provide Lifeline service confirming that i-wireless provides its customers with 911 and E911 access or self-certifying that it does so if certain conditions are met; (e) i-wireless requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from i-wireless; (f) i-wireless establishing safeguards to prevent its customers from receiving multiple i-wireless Lifeline subsidies at the same address, and (g) i-wireless dealing directly with the customer to certify and verify the customer’s Lifeline eligibility. The FCC required i-wireless to submit a plan describing the measures it would take to implement each of these conditions.<sup>28</sup> In accordance with the *i-wireless Forbearance Order*, i-wireless filed its compliance plan with the FCC on July 26, 2010. In that compliance plan, i-wireless described how it would comply with each of the FCC’s stated conditions. A copy of its compliance plan is attached to this Petition as Exhibit L. i-wireless commits to providing Lifeline service in the Non-Jurisdictional States in accordance with the compliance plan.

**C. i-wireless Offers All of the Required Services and Functionalities**

Through its wholesale arrangements with Sprint, i-wireless is able to provide all of the services and functionalities supported by the universal service program under Section 54.101 of the Commission’s rules in the Non-Jurisdictional States. i-wireless will make these services and functionalities available to qualifying Alabama, Connecticut, Delaware, District of Columbia, New Hampshire, North Carolina, New York, Tennessee and Virginia customers.

---

<sup>28</sup> See *i-wireless Forbearance Order* ¶ 16.

### **1. Voice Grade Access to the Public Switched Telephone Network**

i-wireless provides voice grade access to the public switched telephone network (“PSTN”) through the purchase of wholesale CMRS services from Sprint. Bandwidth for this voice-grade access is at minimum between 300 and 3,000 MHz as required by the Commission’s rules.<sup>29</sup>

### **2. Local Usage**

As part of the voice grade access to the PSTN, an ETC must provide local calling services to its customers. The FCC has determined that a carrier satisfies the local usage requirements when it offers customers rate plans containing varying amounts of local usage.<sup>30</sup> i-wireless offers a variety of rate plans that provide its customers with local usage capabilities in the form of monthly plans, unlimited plans or pay-per-use plans.

### **3. Dual Tone Multi-Frequency Signaling or its Functional Equivalent**

i-wireless provides dual tone multi-frequency (“DTMF”) signaling to expedite the transmission of call set up and call detail information throughout the network. All wireless handsets offered for sale by the company are DTMF-capable.

### **4. Single-Party Service or its Functional Equivalent**

“Single-party service” means that only one party will be served by a subscriber loop or access line during a telephone transmission. i-wireless provides single party service to its

---

<sup>29</sup> See 47 U.S.C. § 54.101(a)(1).

<sup>30</sup> See e.g., *Farmers Cellular, Inc.*, CC Docket No. 96-45, Memorandum Opinion and Order, 18 FCC Rcd 3848, 3852 ¶ 9 (2003); *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.*, CC Docket No. 96-45, Memorandum Opinion and Order, 17 FCC Rcd 9589, 9593 ¶ 10 (2002); *Western Wireless Corp., Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, 16 FCC Rcd 48, 52 ¶ 10 (2000).

customers for the duration of each telephone call, and does not provide multi-party (or “party-line”) services.

**5. Access to Emergency Services**

i-wireless provides nationwide access to 911 and E911 emergency services for all of its customers. i-wireless also complies with the Commission’s regulations governing the deployment and availability of enhanced 911 compatible handsets. As stated previously, i-wireless will provide access to emergency services consistent with the requirements set forth in the *i-wireless Forbearance Order*.<sup>31</sup>

**6. Access to Operator Services**

i-wireless provides all of its customers with access to operator services.

**7. Access to Interexchange Services**

i-wireless’ service provides its customers with the ability to make interexchange, or long distance, telephone calls. In fact, interexchange calls are included in i-wireless’ service with no additional charge.

**8. Access to Directory Assistance**

All i-wireless customers are able to dial “411” to reach directory assistance services from their wireless handsets.

**9. Toll Limitation for Qualifying Low-Income Consumers**

Toll limitation allows customers to block the completion of outgoing long distance calls to prevent them from incurring significant long distance charges and risking disconnection. As described above, i-wireless provides its wireless service on a prepaid, or pay-as-you-go, basis. i-wireless’ service, moreover, is not offered on a distance-sensitive basis and minutes are not

---

<sup>31</sup> See *i-wireless Forbearance Order* ¶ 11.

charged separately for local or domestic long distance services. Customers also must specifically authorize access for international services, for which additional charges may apply. As the Commission found in the *Virgin Mobile Order*, “the prepaid nature of [a prepaid wireless service provider’s] service offering works as an effective toll control.”<sup>32</sup> The nature of i-wireless’ service, therefore, mitigates any concerns that low-income customers will incur significant charges for long distance calls resulting in disconnection of their service.

#### **D. Advertising of Supported Services**

i-wireless will broadly advertise the availability and rates for the services described above using media of general distribution as required by Section 54.201(d)(2) of the Commission’s regulations.<sup>33</sup> The Company will advertise its services in a manner reasonably designed to reach those likely to qualify for Lifeline services, using media of general distribution that may include advertisements via newspapers, radio and the internet. These advertising campaigns will be specifically targeted to reach low-income customers and promoting the availability of cost-effective wireless services to this neglected consumer segment.

In addition, i-wireless will utilize its network of retail partners to help promote the availability of its Lifeline plans, especially those retail outlets that are frequented by lower income consumers. i-wireless will provide retail vendors with signage to be displayed where i-wireless products are sold, and with printed materials describing i-wireless’ Lifeline program. Given the relationship that exists between i-wireless, lower income consumers, and retail outlets that are often visited by lower income consumers, i-wireless expects to be able to inform consumers of the availability of Lifeline service in a manner that will result in significantly

---

<sup>32</sup> See *Virgin Mobile Order*, 24 FCC Rcd at 3394 ¶ 34.

<sup>33</sup> See 47 C.F.R. § 54.201.



higher participation in the Lifeline program by qualified consumers than has been the case in the past.

i-wireless will supplement these methods of communication to specifically advertise and promote the availability of its Lifeline offerings to qualifying customers throughout the Non-Jurisdictional States. i-wireless intends to distribute brochures at various state and local social service agencies, and intends to partner with nonprofit assistance organizations (such as Habitat for Humanity), in order to inform customers of the availability of its Lifeline services.

## **VI. DESIGNATION OF I-WIRELESS AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST**

### **A. Goals of the Communications Act**

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.<sup>34</sup> There is no question that limited designation of i-wireless as an ETC in the Non-Jurisdictional States will promote the public interest by providing low-income consumers in the Non-Jurisdictional States with more affordable and higher quality wireless services. Many lower-income consumers have yet to reap the full benefits of the wireless marketplace. Whether because of financial constraints, poor credit or intermittent employment, these consumers often lack access to the benefits that wireless services bring to other consumers.<sup>35</sup> Designating i-wireless as an ETC in the Non-Jurisdictional

---

<sup>34</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

<sup>35</sup> See *supra* note 22.